

## 71 Am. Jur. 2d State and Local Taxation § 37

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### State and Local Taxation

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### Part One. General Principles

#### V. Purposes

##### A. General Requisites; Public Purpose

##### 1. In General

## § 37. Definitions and tests of public purposes

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  4137

West's Key Number Digest, [States](#)  114, 119

West's Key Number Digest, [Taxation](#)  2010 to 2012, 2070 to 2072, 2119

Although the principle that taxes may be levied for public purposes only is one of universal acceptance, it is often difficult to apply it to the facts and circumstances of the particular case which determine the nature of the purpose involved.<sup>1</sup> What constitutes a public purpose is not easy to define.<sup>2</sup> It must be determined on a case-by-case basis, according to each case's own peculiar circumstances as may from time to time arise.<sup>3</sup> Two guiding principles for determining whether a municipality has acted with a public purpose and has complied with the state constitution when imposing a tax are whether the action involves a reasonable connection with the convenience and necessity of the particular municipality and whether the action benefits the public generally as opposed to special interests or persons.<sup>4</sup>

The term "public purpose," as used in a constitutional provision that taxes shall be levied for public purposes only, is synonymous with "governmental purpose."<sup>5</sup> It means a purpose affecting the inhabitants of the state or taxing district as a community and not merely as individuals.<sup>6</sup> This does not mean, however, that a tax is not for a public purpose unless the benefits from the funds to be raised are to be spread equally over the whole community or a large portion thereof; a use may be public although it is of benefit primarily to the inhabitants of a small and restricted locality.<sup>7</sup> A tax is not unconstitutional because one taxpayer receives a greater benefit from a public improvement or service than another.<sup>8</sup>

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Footnotes

- 1 [Green v. Frazier](#), 253 U.S. 233, 40 S. Ct. 499, 64 L. Ed. 878 (1920).
- 2 [Dysart v. City of St. Louis](#), 321 Mo. 514, 11 S.W.2d 1045, 62 A.L.R. 762 (1928); [Ferrell v. Doak](#), 152 Tenn. 88, 275 S.W. 29, 46 A.L.R. 590 (1925).
- 3 [Maready v. City of Winston-Salem](#), 342 N.C. 708, 467 S.E.2d 615 (1996).
- 4 [Peacock v. Shinn](#), 139 N.C. App. 487, 533 S.E.2d 842 (2000).
- 5 [Stanley v. Jeffries](#), 86 Mont. 114, 284 P. 134, 70 A.L.R. 166 (1929); [Mitchell v. North Carolina Indus. Development Financing Authority](#), 273 N.C. 137, 159 S.E.2d 745 (1968).
- 6 [Union Ice & Coal Co. v. Town of Ruston](#), 135 La. 898, 66 So. 262 (1914); [Stanley v. Jeffries](#), 86 Mont. 114, 284 P. 134, 70 A.L.R. 166 (1929).
- 7 [Milheim v. Moffat Tunnel Improvement Dist.](#), 262 U.S. 710, 43 S. Ct. 694, 67 L. Ed. 1194 (1923).
- 8 [Zerr v. Tilton](#), 224 Kan. 394, 581 P.2d 364 (1978).

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